

12.535 EMERGENCY OPERATION OF POLICE VEHICLES AND PURSUIT DRIVING

Reference:

Procedure Manual 12.537, Digital Video Recording Equipment

Ohio Revised Code 2744.02(B) (1) (a), Governmental Functions and Proprietary
Functions of Political Subdivisions

Ohio Revised Code 2935.031, Policy for Pursuit in Motor Vehicle

Ohio Revised Code 2921.331, Failure to Comply with Order or Signal of Police
Officer

Ohio Revised Code 4511.01(d), Definitions

Ohio Revised Code 4511.03, Emergency Vehicles at Red or Stop Signal

Ohio Revised Code 4511.24, Emergency Vehicles Excepted From Speed Limitations

Ohio Revised Code 4511.45, Right-of-Way of Public Safety Vehicles

Ohio Revised Code 4513.21, Horns, Sirens, and Warning Devices

Colbert v. City of Cleveland, 99 Ohio St.3d 215 (2003)

Cincinnati Municipal Code 513-1, Impoundment of Motor Vehicles

Cincinnati Municipal Code 759-2, Use of a Motor Vehicle in Failure to Comply with
Order or Signal of a Police Officer

Definitions:

Emergency Driving (General Non-Pursuit) – the operation of an authorized emergency vehicle (emergency lights and siren in operation) by a police officer in response to a life threatening situation or a violent crime in progress, using due regard for the safety of others.

Following – driving in close proximity to a subject vehicle without using any apprehension efforts, such as lights or sirens or any other method of direction to stop.

Pursuit Driving – an attempt by a law enforcement officer operating an emergency vehicle and simultaneously utilizing lights and siren to apprehend an occupant(s) of another moving vehicle, when the driver of the fleeing vehicle is aware of the attempt and is resisting apprehension by maintaining or increasing speed, disobeying traffic laws, ignoring or attempting to elude the officer.

Emergency Call – a call to duty, including, but not limited to: communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations demanding an immediate response on the part of a peace officer. Emergency calls are not limited to inherently dangerous situations.

Original documents – photographs, DVR discs/hard drives, and any documents that are handwritten or contain an original signature.

Operational Violation – Any violation during a pursuit that would be considered a moving traffic violation according to the Ohio Revised Code (ORC) or the Cincinnati Municipal Code (CMC). An Operational Violation results in a non-compliant pursuit.

Example violations: One Way Streets; any at-fault accident.

Administrative Violation – Any violation of this procedure that is not an operational or equipment violation. An Administrative Violation results in a non-compliant pursuit.

Example violations: pursuing for traffic only; more than two vehicles in a pursuit; failure to terminate a pursuit.

Equipment Violation – Any violation of this procedure involving the camera and/or microphone systems of the police vehicle's Digital Video Recording (DVR) equipment. An Equipment Violation, on its own, does **not** result in a non-compliant pursuit.

Example violations: Failure to ensure the DVR and body microphone are recording; failure to report malfunctioning equipment to a supervisor; body microphone left in the cradle, failing to record audio.

Purpose:

Ensure the safety of citizens and police officers during the emergency operation of police vehicles.

Policy:

All sworn personnel will complete any established training program regarding vehicle pursuits.

Officers must terminate their involvement in motor vehicle pursuits whenever the risks to their safety, the safety of innocent bystanders, or the safety of the suspect(s) outweigh the consequences of the suspect's escape.

While operating a police vehicle in emergency mode, entry into an intersection against a stop sign or signal poses a heightened level of risk to both sworn personnel and the public, and thus requires an increased level of caution to meet the due regard to safety standard. In order to show due regard when approaching intersections against a stop sign or red traffic signal, sworn personnel shall slow down as necessary for the safety of traffic and shall only proceed into the intersection at a speed which would allow for themselves and/or other drivers and pedestrians a reasonably sufficient opportunity to avoid a traffic crash.

During the emergency operation of police vehicles, and prior to and during a pursuit, officers must weigh the following factors:

- Degree of risk created by pursuit to others, officer and suspect.
- Location where pursuit will take place.
- Traffic conditions and amount of pedestrian traffic.
- Road conditions.
- Time of day.
- Weather.
- Volume, type, speed and direction of vehicular traffic and direction of pursuit.
- Nature/seriousness of suspected crime.
- Condition of police vehicle and suspect's vehicle.
- Any circumstance that could lead to a situation in which the pursuing officer(s) will not be able to maintain control of the police vehicle.
- Type of vehicle being pursued.
- Likelihood of successful apprehension.
- Whether the identity of the suspect is known to the point that later apprehension is possible.

Officers will not attempt to stop or slow a pursued vehicle by boxing in, heading off, ramming, or driving alongside during a pursuit.

Officers will not pursue vehicles the wrong way on the interstate or other controlled access highway, divided roadways, or one-way streets unless specifically authorized by the pursuit officer in charge (OIC).

Officers must ensure video and audio recording equipment is activated when operating in emergency mode and when participating in traffic stops and pursuits.

Police motorcycle units may become involved in a pursuit as primary units when they initiate the pursuit. The motorcycle unit will turn the pursuit over to a marked police car as soon as possible and discontinue emergency operation.

Officers wearing plainclothes or using unmarked vehicles will avoid making stops of suspected vehicles and will not engage in vehicle pursuits. The danger presented to officers and citizens is much greater than when uniformed officers with marked vehicles make the initial contact.

Officers will not attempt to stop vehicles while off duty unless it is a life-threatening situation which, if permitted to continue, could cause serious physical harm to innocent victims.

Pursuits leaving the initiating district will switch to the channel of the district that the pursuit enters after it is established the pursuit will not immediately re-enter the boundaries of the initiating district.

Example One: A vehicle pursuit initiated in District One which enters I-75 north and passes the Harrison Avenue exit will switch to Channel Five for dispatch.

Example Two: A vehicle pursuit initiated in District One which travels north on Vine Street, enters District Four and proceeds east on Thill Street, then south on Rice Street back into District One, may remain on Channel One.

Procedure:

A. Emergency Operation of Police Vehicles

1. Emergency operation (lights and siren) of a police vehicle is authorized in the following emergency cases (call to duty) and under the following conditions:
 - a. Officer needs assistance.
 - b. Person calling for help.
 - c. Report of an explosion.
 - d. Trouble with a prisoner.
 - e. Crimes in progress requiring the immediate presence of a police officer.
 - f. Auto accident with reported injury.
 - g. Emergency medical runs when Fire Department personnel are not immediately available.
 - h. Pursuit driving.
2. When operating a police vehicle in the emergency mode, officers:
 - a. Will not operate with reckless disregard for the safety of other citizens.
 - b. Will use the emergency lights (red/blue) and siren.
 - 1) Do not use four-way flashers because they interfere with brake lights and turn signals.

- c. Will ensure video and audio recording equipment is activated if the police vehicle is equipped with it.
 - 1) Officers will ensure the body microphone is out of its cradle and recording.
- d. Will not have complainants, witnesses, suspects, prisoners, or other non-police personnel as passengers. This restriction does not apply to:
 - 1) Civilian observers who have signed a Form 612, Release of All Claims.
 - 2) Units transporting sick or injured persons to the hospital.
- 3. When driving in emergency mode, the operator will conform to all applicable traffic laws and regulations.
 - a. When driving in emergency mode and approaching a red traffic signal or stop sign, the operator must only enter the intersection with a due regard to safety. In order to show due regard when approaching and entering intersections against a stop sign or red traffic signal, the operator shall slow down as necessary for the safety of traffic and shall proceed into these intersections at a speed which would allow for themselves and/or other drivers and pedestrians a reasonable opportunity to avoid a traffic crash.
 - b. When driving in emergency mode, the operator must maintain a vehicle speed which is reasonable for the conditions, including but not limited to: time of day, road conditions, pedestrian and vehicle traffic, and weather; the operator will not exceed the posted speed limit by more than 20 miles per hour.

B. Silent Response

- 1. Police officers may respond to certain calls, such as robberies or burglaries in progress, using emergency lights only (no audible siren). The officers responding on these silent runs must clearly understand:
 - a. The mere use of flashing emergency lights, without an audible siren, does not designate the vehicle as an emergency vehicle by law and may negate any immunity available to the operator.
 - b. They must proceed with extreme caution and at a reasonable speed to avoid endangering the life and property of others.

C. Portable Flashing Blue Lights on Unmarked Vehicles

1. A vehicle with a portable flashing blue light is not considered an emergency vehicle.
2. The portable flashing blue light should be used to identify emergency conditions at an auto accident, road hazard, crime scene, etc.
3. Do not use the portable flashing blue light to:
 - a. Identify any unmarked vehicle as an emergency response vehicle.
 - b. Substitute for the emergency equipment on the patrol cars.

D. Pursuit Driving

1. A motor vehicle pursuit is permitted in the following instances:
 - a. On-sight pursuit of a known or suspected felon.
 - b. On-sight pursuit of **criminal** misdemeanor violations.
 - c. There is reasonable suspicion the occupants of a suspect vehicle have committed a **criminal** misdemeanor offense.

Example: The broadcast of a suspect vehicle and/or suspect vehicle wanted for theft.
 - d. A **criminal** warrant/capias is on file.
 - 1) Officers must confirm the **criminal** warrant/capias through the Mobile Data Computer (MDC) or with the dispatcher prior to initiating a pursuit.
 - 2) Vehicle pursuits initiated for traffic offenses only are not permitted.
 - a) Operating a Vehicle under the Influence (OVI), Driving Under Suspension (DUS) and Reckless Operation are traffic only offenses. Pursuit for these offenses alone is a violation of this procedure.
 - e. When directed by a supervisor or by Emergency Communications Center (ECC) at the direction of a supervisor to assist in a police pursuit.

2. Notification

- a. A pursuing officer(s) will immediately relay the following information to ECC:
 - 1) Car number.
 - 2) Location.
 - 3) Direction.
 - 4) A description of vehicle, license number, and occupants.
 - 5) Reason for pursuit.
 - 6) Speeds involved.

3. ECC Responsibilities

- a. The dispatcher will immediately notify the initiating pursuit unit's supervisor. That supervisor becomes the pursuit OIC and is responsible for directing the pursuit until its end.
 - 1) If the unit supervisor is unavailable, a district supervisor where the pursuit began becomes the pursuit OIC.
- b. The dispatcher will note the time, car number, district involved, and immediately notify the ECC shift OIC.
- c. The pursuit dispatcher will notify other district personnel via an all channel broadcast as the pursuit enters into adjoining district boundaries.
- d. Keep non-emergency radio traffic to a minimum during the pursuit.
- e. ECC will broadcast the pursuit on all available channels. Upon anticipation of a pursuit across city limits, ECC will make an all county broadcast (ACB).
- f. The ECC supervisor will provide the necessary support during the pursuit.

4. Supervisory Responsibilities

- a. The pursuit OIC will retain control and continually monitor and assess the situation. The pursuit OIC will direct specific units in or out of the pursuit, reassign primary or secondary units, set posts, authorize roadblocks, and terminate the pursuit.
 - 1) Final decisions will rest with the pursuit OIC.
- b. The pursuit OIC will complete Form 34, Vehicle Pursuit Report, and work-flow the form through channels to the district/section/unit commander. When work-flowing the Form 34 and attachments, "Add Notification" to the following units:
 - 1) Office of Neighborhood Policing
 - 2) Inspections Section
- c. After reviewing the DVR of any unit involved in the pursuit in accordance with Procedure 12.537, route a copy of the MVR/DVR, along with any other original documents, through the chain of command.
- d. The supervisor will note the officer's compliance or non-compliance at the end of the Form 34 narrative.
 - 1) Compliance responses (Refer to the Definitions section of this procedure):
 - a) Yes – No Violations
 - b) Yes – Equipment Violation Only
 - c) No – Operational Violation
 - d) No – Administrative Violation

5. Number of Units

- a. Unless authorized by the pursuit OIC, no more than two police vehicles will become actively involved in the pursuit.

- b. The primary unit will:
 - 1) Be responsible for keeping the suspect's vehicle in sight.
 - 2) Advise the supervisor if more than two police units are needed for the pursuit.
 - 3) Have the authority to terminate the pursuit should conditions warrant.
- c. The secondary unit will:
 - 1) Immediately notify ECC there are two police units involved in the pursuit.
 - 2) Assume responsibility for the transmission of all relevant pursuit information to ECC.
 - 3) Provide backup for the primary unit during the arrest process.

E. Termination of the Pursuit

- 1. Officers will terminate pursuits under any of the following conditions:
 - a. The pursuit OIC or the primary unit determines the level of danger created by the pursuit outweighs the necessity for immediate apprehension.
 - b. Establishment of the suspect's identity allowing for apprehension at a later time and there is no longer a need for immediate apprehension.
 - c. Location of the pursued vehicle is no longer known.
 - d. The pursued misdemeanor violator crosses the Hamilton County line (Refer to Section F.3.)
- 2. Once a pursuit has been terminated, the pursuing officer(s) will immediately pull to the curb and stop.

F. Pursuits Leaving Cincinnati

- 1. By statute, police officers have the authority to pursue outside their jurisdiction and arrest without a warrant provided:
 - a. The officers would have authority to make the arrest inside their jurisdiction.

- b. The pursuit takes place without unreasonable delay after the offense.
- c. The pursuit starts within the police officers' jurisdiction.
- d. The offense is one of the following:
 - 1) Felony
 - 2) First or second-degree misdemeanor
- 2. If the above criteria are not met, the officers cannot pursue and cannot arrest outside their jurisdiction.
- 3. Although it can be a felony to flee and/or elude a police officer (ORC 2921.331), if this is the only felony charge, fresh pursuit of a criminal misdemeanor violator will terminate at the Hamilton County line.
 - a. Officers must receive supervisory approval before signing ORC 2921.331 felony charges.
- 4. Officers may pursue felony suspects beyond state boundaries. However, the new jurisdiction will continue the pursuit as the primary unit (if available). The Cincinnati primary unit and secondary unit will then assist.
 - a. Officers will terminate pursuits if radio contact with ECC is lost due to officers going beyond radio range.

G. Outside Agency Pursuits into Cincinnati

- 1. In the event of a pursuit from an outside agency into Cincinnati, the same guidelines for pursuits outlined in this procedure will apply to Department personnel. Department personnel will not engage in a pursuit from an outside agency if the pursuit would be prohibited by our Department.
 - a. ECC will notify the appropriate district supervisor, who becomes the pursuit OIC for Department personnel if the decision is made to engage in pursuit.
 - 1) The outside agency will remain responsible for the pursuit and serve as the primary unit until responsibility is relinquished to Department personnel.
 - 2) ECC will broadcast the pursuit and its progress.

- 3) If the pursuit entering Cincinnati does not meet the Department's requirements for a pursuit, at the direction of a Police supervisor, ECC will notify the outside agency that Department personnel will not engage in pursuit.
- b. If an outside agency has one vehicle in the pursuit, we will assist with one unit if the pursuit meets the Department requirements for a pursuit.
- c. If an outside agency has two or more vehicles in pursuit, we will not assist in the pursuit of the fleeing vehicle.

H. Roadblocks

- 1. Under normal circumstances, officers will not set up roadblocks to stop fleeing vehicles. The pursuit OIC may grant permission for a roadblock if he has knowledge the suspect has committed:
 - a. Murder or Aggravated Murder
 - b. Aggravated Arson
 - c. Aggravated Robbery
 - d. Aggravated Burglary
 - e. Rape
 - f. Complicity to any of the above
- 2. Officers will set up roadblocks only with the direct permission of the pursuit OIC and in accordance with the following guidelines:
 - a. Officers will not set up roadblocks at locations that will endanger innocent citizens or create a hazard to vehicular traffic. Officers will not set up roadblocks which could limit visibility and not allow operators sufficient time to safely stop, e.g., at a curve in the road, or beyond the crest of a grade.
 - b. Use Police Department vehicles only.
 - 1) Do not use Department motorcycles or privately owned vehicles.

- c. Position the Department vehicles in the roadblock so the open route left through the restricted area will require approaching vehicles to proceed slowly through it.
 - 1) Turn on all of the vehicle's emergency lighting, turn the ignition switch off, and leave the vehicle. No one is to remain inside the vehicle.
 - 2) If using Stop Sticks, use according to guidelines set forth in Section I.
- d. Do not detain innocent citizens. Direct them to proceed with their vehicles through the roadblock and out of the path of the fleeing vehicle(s).

I. Use of Stop Sticks

1. The Department currently has four models of Stop Sticks:
 - a. Standard Stop Stick - three feet in length.
 - b. Barracuda – three feet in length but with longer quills designed to stop larger vehicles like buses or trucks.
 - c. Terminator - designed to be placed in front of a tire on a static vehicle, e.g., traffic stop.
 - d. Piranha - resembles the standard Stop Stick but is only 5 1/8" long. It is designed to be placed covertly in front of a tire to ensure the vehicle is not moved.

Note: District Civil Disturbance Operating Procedure (CDOP) Vans are equipped with the Barracuda, Terminator and Piranha Stop Sticks. Supply Unit maintains a replacement supply of stop sticks.

2. Deployment of Stop Sticks:
 - a. Stop Sticks are designed for a controlled release of air from a target vehicle's tires, usually within 20-30 seconds. However, under some circumstances tire deflation can increase the possibility that a driver may lose control of the vehicle and crash, resulting in serious or fatal injuries. Therefore, the following guidelines shall be followed when deploying Stop Sticks:

- 1) Officers will use Stop Sticks only on vehicles with four or more wheels.
 - a) Do not use Stop Sticks on motorcycles.
- 2) Avoid deploying Stop Sticks on motor vehicles in transit if there are pedestrians in the immediate vicinity and the use of the Stop Sticks would place them at risk of physical harm or injury, i.e., use of Stop Sticks on a motor vehicle traveling at a high rate of speed in a residential area.
- 3) Limit or isolate traffic from the pursuit or location where the Stop Sticks are being deployed.
- 4) Stop Sticks will not be deployed on expressways.
- b. Normally the pursuit OIC will make the decision to use Stop Sticks. Situations may occur making this impossible. Under these circumstances, officers may use Stop Sticks if they can do so safely.
 - 1) Operators of vehicles equipped with Stop Sticks must receive proper training in the use of Stop Sticks.
- c. Officers must alert ECC of their intention to use Stop Sticks, and of their exact location.
 - 1) ECC will relay the location to the pursuing officers.
- d. Do not discard used Stop Sticks. The manufacturer replaces used Stop Sticks for a period of five years from purchase when the old ones are returned.
 - 1) If Stop Sticks are used in a pursuit situation, the pursuit OIC will:
 - a) Address their use and effectiveness in the Form 34, Vehicle Pursuit Report.
 - b) Complete a Form 630, Equipment/Supply/Service Order Form, and submit through the chain of command, to the Supply Unit for the replacement of Stop Sticks.
 - c) Ensure used Stop Sticks accompany the Form 630 to Supply Unit.

- e. If Stop Sticks were used and the incident did not involve a pursuit, the unit supervisor will:
 - 1) Investigate and report via Form 17 to the Police Chief.
- 3. Preventing a pursuit for criminal offenses and stolen vehicles
 - a. Officers may deploy stop sticks to prevent pursuits before initiating a traffic stop when there is reason to believe an occupant of the vehicle has just committed a criminal offense or the vehicle is entered as stolen.
- J. Reporting Process – Traffic Stop initiated and vehicle flees. (See also Chart A of this procedure)
 - 1. No pursuit initiated
 - a. Vehicle located/recovered
 - 1) Investigation handled by the officer
 - 2) A Form 303, Motor Vehicle Incident Report, will be completed for “Fleeing and Eluding, ORC 2921.331” and will include the original violation and initiating officer and district in the narrative.
 - a) The Form 303 will clearly specify whether there was or was not a pursuit initiated
 - b. Vehicle not located/recovered
 - 1) A Form 303, Motor Vehicle Incident Report, will be completed for “Fleeing and Eluding, ORC 2921.331” and will include the original violation and initiating officer and district in the narrative.
 - a) The Form 303 will clearly specify whether there was or was not a pursuit initiated.
 - b) Reporting officer will fax the completed Form 303 to CIN1 for entry into RCIC only when there is enough identifying information on the fleeing vehicle.

- 2) Once vehicle is located:
 - a) Vehicle will be towed to Impound Unit for “investigation” of “Fleeing and Eluding”.
 - b) Recovering officer will fax Form 369 to:
 - 1] CIN1 for removal from RCIC
 - 2] Investigating officer
- 2. Pursuit initiated
 - a. Vehicle escapes but is located/recovered
 - 1) Investigation handled by the officer
 - b. Vehicle stops
 - 1) Investigation handled by the officer
 - c. Vehicle escapes/not located
 - 1) A Form 303, Motor Vehicle Incident Report, will be completed for “Fleeing and Eluding, ORC 2921.331” and will include the original violation and initiating officer and district in the narrative
 - a) The Form 303 will clearly specify whether there was or was not a pursuit initiated.
 - b) Reporting officer will fax the completed Form 303 to CIN1 for entry into RCIC only when there is enough identifying information on the fleeing vehicle.
- 2) Once vehicle is located:
 - a) Vehicle will be towed to Impound Unit for “investigation” of “Fleeing and Eluding”.
 - b) Recovering officer will fax Form 369 to:
 - 1] CIN1 for removal from RCIC
 - 2] Investigating officer

3. When a civil citation is issued during the investigation, the white copy of the civil citation will be forwarded to the district/section/unit designee responsible for entering civil citations into the Civil Citation Tracking System for entry.

